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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 301, 302, 303, 304, 305, 307, 308, 309 and 310

RIN: 0970-AC96

Parentage Establishment in the Child Support Services Program

AGENCY: Office of Child Support Services (OCSS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS or the Department).

ACTION: Notice of proposed rulemaking.

SUMMARY: Office of Child Support Services **(**OCSS) proposes to replace the gender-specific term "paternity" with the gender-neutral term "parentage" throughout the Child Support Services Program to be inclusive of all family structures served by the child support services program. While title IV-D (Child Support and Establishment of Paternity) requires States and Tribes to have laws permitting the establishment of paternity and requiring genetic testing in contested paternity cases, OCSS also recognizes that title IV-D does not preclude States and Tribes from having parentage establishment laws and procedures for all families. The proposed changes to chapter III of the child support regulations recognize developments in State laws regarding parentage establishment and provide States and Tribes optional flexibility to establish parentage for all children in accordance with their laws, regardless of the gender of their parents or family structure.

DATES: Consideration will be given to written comments on this Notice of Proposed Rulemaking (NPRM) received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by [docket number (ACF-2023-0006) and/or Regulatory Information Number (RIN) 0970-AC96], by one of the following methods:

- *Federal e-Rulemaking Portal*: https://www.regulations.gov. Follow the instructions for submitting comments.
- *Mail*: Written comments may be submitted to: Office of Child Support Services, *Attention:* Director of Policy and Training, 330 C Street SW., Washington, DC 20201.

Instructions: All submissions received must include the agency name and docket number or RIN for this rulemaking. All substantive comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Darryl Watts, Division of Policy and Training, OCSS, telephone (202) 969-3621. Email inquiries to ocss.dpt@acf.hhs.gov. Telecommunications Relay users may dial 711 first.

SUPPLEMENTARY INFORMATION:

Submission of Comments

Comments should be specific, address issues raised by the proposed rule, and explain reasons for any objections or recommended changes. Additionally, we will be interested in comments that indicate agreement with the proposals. We will not acknowledge receipt of the comments we receive. However, we will review and consider all comments that are relevant and are received during the comment period. We will respond to these comments in the preamble to the final rule.

Proposal

OCSS proposes to replace the gender-specific term “paternity” with the gender-neutral term “parentage” throughout 45 CFR chapter III to be inclusive of all family structures served by the child support services program. OCSS further proposes to define

"parentage" to mean the establishment of the legal parent-child relationship in accordance with the laws of the State or Tribe. These proposed changes to chapter III of the child support regulations recognize developments in State laws regarding parentage establishment. The proposed rulemaking explains that consistent with title IV-D, States and Tribes have the option to expand their parentage establishment laws and procedures to include establishment of parentage for children of same-sex parents when establishment of paternity does not apply and that such services are eligible for title IV-D matching funds. The proposed rule also allows States to include same-sex parentage establishments in program performance reports. This proposed rulemaking does not change program requirements related to paternity establishment in cases involving different-sex parents. While title IV-D requires States and Tribes to have laws permitting the establishment of paternity and requiring genetic testing in contested paternity cases, OCSS also recognizes that establishment of the parent-child relationship is a matter of State and Tribal laws, and that title IV-D does not preclude States and Tribes from having parentage establishment laws and procedures for same-sex parent families. The proposed rule provides State and Tribal child support services programs needed flexibility to ensure that all children in their caseloads can receive services to enforce the support obligation of the parent who, under State or Tribal laws, has a duty to provide support, regardless of the parent's gender or sexual orientation. The proposed regulation is consistent with the purpose of section 451 of the Social Security Act, which authorizes funding to States and Tribes to ensure that "assistance in obtaining support will be available under this part [Title IV-D of the Social Security Act] to **all** children . . . for whom such assistance is requested." (Emphasis added).

This proposed regulation aligns with President Biden's Executive orders on *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, Executive Order 13985, 86 FR 7009 (January 20, 2021);

Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, Executive Order 13988, 86 FR 7023 (January 20, 2021); *Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals*, Executive Order 14075, 87 FR 37189 (June 15, 2022); and *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, Executive Order 14091, 88 FR 10825 (February 16, 2023). These Executive orders address how the Federal Government should pursue a comprehensive approach to advancing equity for all, including members of the LGBTQI+ communities. This regulation is also consistent with the recently enacted "Respect for Marriage Act," Pub. L. 117-228 (December 13, 2022), which requires recognition of any marriage between two individuals that is valid where created "for the purposes of any federal law, rule, or regulation in which marital status is a factor" and requires States to provide full faith and credit to marriages entered into in another State. Like the Respect for Marriage Act, this proposed rule recognizes the existence of and legal needs of diverse family structures.

Public Consultations with Tribes

To obtain the broadest public participation possible on the proposed rule, OCSS plans to conduct a public consultation with tribes during the comment period. The importance of consultation with Indian Tribes was affirmed through Presidential Memoranda in 1994, 2004, 2009, and 2022. This NPRM does not impose any burden or cost on Tribes, nor does it impact the relationship or distribution of power between the Federal Government and Tribes. This NPRM would permit, but not require, Tribes to establish same-sex parentage and recognize parentage established by other States and Tribes. In accordance with the Memorandum on Uniform Standards for Tribal Consultation (November 30, 2022), "agencies may still engage in Tribal Consultation even if they determine that a policy will not have Tribal implications and should consider doing so if they determine that a policy is of interest to a Tribe or Tribes."

We plan to publish a separate public notice in the *Federal Register* with the specific location, date, and time of the consultation, and to disseminate public notices to all comprehensive and start-up Tribal child support services programs. Further information regarding this consultation, including last-minute changes, will be available on the OCSS website at https://www.acf.hhs.gov/css/child-support-professionals/tribal-agencies.

At the consultation, Federal officials will explain and answer questions to clarify the proposed rule. Persons who attend may make oral presentations and/or provide written comments for the record. They also may submit written comments to OCSS as explained earlier in this preamble.

We encourage persons who make oral presentations at the consultation to also submit written comments in support of their presentations. We encourage any person who wishes to make an oral presentation on the proposed rule at any of the consultation to preregister before or at the consultation. We will provide specific information on preregistration in the separate notice published on the consultation. At the time of preregistration, we will record identifying information about prospective presenters, such as name, organization (if any), address, email address, and telephone number, so that presenters can be accurately identified and properly introduced at the consultation. Persons who preregistered will make their presentations first; then, as time allows, persons who did not preregister will make their presentations. Presentations must be about the proposed rule, should be specific, and should include specific recommendations for changes where appropriate. In fairness to other participants, presentations should be concise and will be limited to a maximum of 10 minutes each. To clarify presentations, we may ask questions. Presentations will be recorded and included in the public record of comments on the proposed rule unless a commenter does not want his or her comments to be on the record.

At the consultation, we cannot address participants' concerns or respond to questions about the proposed rule other than questions asking for clarification. Instead, we will consider comments and recommendations provided at the consultation, and written comments and recommendations submitted as described earlier in this preamble, as we draft the final rule. All comments made during consultation will be recorded or summarized and placed in the rulemaking docket.

Statutory Authority

This NPRM is published under the authority granted to the Secretary of Health and Human Services by section 1102, 452(a)(1), and 454(13) of the Social Security Act (the Act) (42 U.S.C. 1302, 652(a)(1), and 654(13), respectively). Section 1102 of the Act authorizes the Secretary to publish regulations not inconsistent with the Act as may be necessary for the efficient administration of the functions with which the Secretary is responsible under the Act. Section 452(a)(1) of the Act authorizes the Secretary to "establish such standards for State programs for locating noncustodial parents, establishing paternity, and obtaining child support and support for the spouse (or former spouse) with whom the noncustodial parent's child is living as he determines to be necessary to assure that such programs will be effective." In addition, section 454(13) of title IV-D provides the Secretary with broad authority to require states to "comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan." The regulation is also consistent with section 451 of the Act, which authorizes funding under title IV-D for the purpose of "assuring that assistance in obtaining support will be available under this part [Title IV-D] to **all** children (whether or not eligible for assistance

under a State program funded under part A [TANF]) for whom such assistance is requested." (Emphasis added).

Background

The millions of families served by the child support services program are becoming increasingly diverse. In recognition of varied family structures, States have changed parentage establishment laws to address the financial and emotional needs of children and families. Federal laws related to marriage, impacting legal and financial parental responsibilities to children born of the marriage, have also changed. This NPRM recognizes these developments in State and Federal law by providing States and Tribes the option to provide full child support services to all children, regardless of family structure, consistent with the laws and procedures of their State or Tribe. These proposed changes are authorized by sections 1102, 452(a)(1), and 454(13) of the Act, which provide the Secretary authority to establish requirements and standards necessary for the effective operation of the child support services program, and section 451 of the Act, authorizing title IV-D funds for the purpose of ensuring all children receive assistance in obtaining financial support from their parents. Replacing the term "paternity" with the broader gender-neutral term "parentage" allows States and Tribes the option to provide essential child support services to all families recognized under their laws. We also propose to define "parentage" to mean the establishment of the legal parent-child relationship in accordance with the laws of the State or Tribe. The proposed changes clarify that title IV-D funded services are available to all families and that States and Tribes have the option to provide parentage establishment services to all families without risking title IV-D plan compliance and include such establishments in their title IV-D performance reports. The proposed rule does not require States or Tribes to implement any changes to their laws or procedures for establishing parentage.

Changes in Federal Law

In an effort to alleviate childhood poverty, title IV-D was enacted in 1975 to focus on nonsupport by fathers, thus requiring states to establish paternity, when appropriate, for all children born to unmarried parents who either received public assistance benefits or applied for title IV-D services. Since title IV-D includes only "paternity" establishment requirements, some States have been concerned that funding under Title IV-D cannot be used to provide child support services assistance to same-sex parents and their children, which would effectively deny government services intended to ensure that children receive financial support from their parents, regardless of gender or sexual orientation, or existence of a biological connection to their child. In the last several years, however, Federal and State laws have changed in recognition of the growing diversity of the American family-scape, to ensure that laws are applied equitably and provide for the legal needs of families, regardless of their structure.

In 2015, following the United States Supreme Court landmark civil rights decision in *United States v. Windsor*, 570 U.S. 744 (2013),[1] the Court held in *Obergefell v. Hodges*, 576 U.S. 644, that same-sex couples have a fundamental right to marry, and that State law cannot prohibit couples from exercising that right. The Court recognized that marriage is part of a spectrum of personal choices concerning family relationships, procreation, and childrearing protected by the Constitution and that same-sex couples—like different-sex couples—have the right to marry, establish a home, and bring up children, and to have access to the "rights, benefits, and responsibilities" of marital status, including identification in "birth and death certificates."[2] The Supreme Court found that the due process and equal protection clauses of the Fourteenth Amendment guaranteed

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[1] In *Windsor*, the Supreme Court struck section 3 of the Defense of Marriage Act (DOMA) under the Due Process Clause of the Fifth Amendment, holding that the Federal Government cannot define the terms "marriage" and "spouse" in a way that excludes married same-sex couples from the benefits and protections that married different-sex couples receive.

[2] *Obergefell v. Hodges*, 576 U.S. 644, 670 (2015).

same-sex couples a right to enjoy the same access to legal marriage, and its "constellation of benefits" that different-sex couples traditionally enjoy.[3]

In 2017, the Supreme Court applied *Obergefell* to conclude that one of those benefits was a presumption of parentage based on marriage. In *Pavan v. Smith*, 582 U.S. 563 (2017), the Supreme Court held that a State may not, consistent with Constitutional due process and equal protection rights recognized in *Obergefell*, deny married same-sex couples' inclusion on their children's birth certificates that the State grants to married different-sex couples. The changes made by the proposed rule are consistent with the fundamental rights analysis in *Windsor*, *Obergefell* and *Pavan*. Those changes describe how title IV-D programs should operate in light of the developments in State laws prompted by those decisions and broader societal shifts. This NPRM does not address the constitutionality of those State laws on establishment and recognition of parentage but seeks to implement title IV-D, pursuant to HHS's authority under the statute.

In 2022, in response to inquiries from States, OCSS issued Policy Interpretation Question 22-02 (PIQ-22-02)[4] clarifying that States may, consistent with title IV-D plan requirements, establish same-sex parentage to ensure that the State can establish child support orders against the parent who, under State law, owes a duty of support. PIQ-22-02 also clarified that Federal financial participation (FFP) under title IV-D is allowable for such establishments. As stated in PIQ-22-02, "[t]he Act does not preclude States from adopting additional laws on parentage, surrogacy, and assisted reproduction that define and afford parental rights to same-sex parent families." PIQ-22-02 further explained that:

> OCSE recognizes that all children are entitled to child support regardless of the gender or sexual orientation of their parents, and that the main purpose of the program is to ensure that assistance in obtaining support is available to all children for whom such assistance is requested. We also recognize that

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[3] *Id.*

[4] PIQ-22-02, Same-Sex Parents and Child Support Program Requirements (March 29, 2022) is available at: https://www.acf.hhs.gov/css/policy-guidance/same-sex-parents-and-child-support-program-requirements.

> establishment of the parent-child relationship is a matter of state law and state child support programs need flexibility to provide core child support services, which include establishing support orders against the parent who, under state law, has a duty to provide support. Therefore, parentage establishment services provided to same-sex parent families, though not required under title IV-D, are permissible and eligible for FFP under 45 CFR 304.20(a)(1), which authorizes FFP for reasonable and necessary expenses related to the core title IV-D program functions of establishing and enforcing support orders. (Citation omitted).

By defining "parentage" to mean the establishment of the legal parent-child relationship in accordance with the laws of the State or Tribe and replacing the term "paternity" where it appears in the child support regulations in 45 CFR chapter III with the term "parentage," the proposed rule provides States and Tribes further assurance that their same-sex parentage establishment laws, though not required under title IV-D, are permissible and consistent with title IV-D child support enforcement requirements, and that title IV-D funds are available to provide child support services.

In December 2022, Congress enacted the Respect for Marriage Act (RMA), Pub. L. 117-228 (Dec. 13, 2022), requiring the recognition of marriage between two individuals that is valid where created "for the purposes of any Federal law, rule, or regulation in which marital status is a factor." Congress recognized that "millions of people, including interracial and same-sex couples, have entered into marriages and have enjoyed the rights and privileges associated with marriage. Couples joining in marriage deserve to have the dignity, stability, and ongoing protection that marriage affords to families and children." While the RMA does not address parental rights of same-sex parent families, other rights such as parental rights and responsibilities flow from marriage under state family law principles. These recent developments in Federal law support the need to clarify parentage establishment options under title IV-D.

Changes in State Law

The Uniform Parentage Act (UPA), first promulgated by the Uniform Law Commission[5] (ULC) in 1973, provides States with a uniform framework for establishing parent-child relationships. The 1973 UPA provided and established a network of presumptions used to determine a child's legal parentage and removed the legal status of illegitimacy for children born to unmarried parents. At the time, the ULC observed that States needed new legislation on parentage establishment because "the bulk of current law on the subject of children born out of wedlock is either unconstitutional or subject to grave constitutional doubt."[6] Notably, the UPA has used the term "parentage" since 1973. In response to dramatically changing genetic and reproductive technology, the ULC revised the UPA in 2002 to address acknowledgment of paternity procedures, genetic testing, and surrogacy. Following the Supreme Court decisions in *Obergefell* and *Pavan*, the ULC revised the UPA again in 2017 to ensure the equal treatment of children born to same-sex couples. Recognizing that the child support services program is an important voice on changes to the UPA, the ULC invited OCSS and the National Child Support Engagement Association (NCSEA) to participate as official observers in the drafting process. The UPA (2017) contains gender-neutral language and provides for parentage establishment processes based on the marital presumption and voluntary acknowledgment of parentage for unmarried same-sex parents. Additionally, it includes provisions for the establishment of parentage for individuals who do not have a biological relationship to the child, specifically the intended parents of surrogacy agreements and unwed *de facto* parents, as well as for children born through assisted reproductive technology whose parent do not have a biological relationship to their child. OCSS determined that these changes to the UPA are not inconsistent with title IV-D of the

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[5] The ULC develops model laws. States may adopt the laws through their legislative process. On occasion, Federal law requires states to adopt a model law as a condition of receiving Federal funding, e.g., the Uniform Interstate Family Support Act, but the UPA is not one of those laws. States may adopt the UPA at their discretion.

[6] See Prefatory Note to the 1973 UPA, available at: https://www.uniformlaws.org/viewdocument/final-act-with-comments-117?CommunityKey=10720858-ebe1-4e85-a275-40210e3f3f87&tab=librarydocuments.

Social Security Act requirements. The proposed changes to chapter III will allow states that have adopted the 2017 UPA to establish support orders against the individual who, under State and Tribal laws, owes a duty of support, without risking noncompliance with title IV-D requirements.

According to the Census Bureau, approximately 15 percent (14.7 percent) of the 1.1 million same-sex couples in the United States in 2019 had at least one child under 18 in their household.[7] Overall, about 292,000 children had parents living with a same-sex partner or spouse.[8] To meet the needs of children with diverse family structures in their States, many States have laws, either through State legislation or case law, that recognize parental rights for intended, but not genetically related, *de facto* parents —including nonmarital families, families headed by same-sex couples, and families formed through assisted reproduction.[9] In addition, a growing number of States have updated their laws regarding parentage establishment to be able to address the legal, emotional, and financial needs of children in diverse family structures where establishment of paternity would not be appropriate. As of June 2023, seven States have adopted the 2017 UPA,[10] and five States have introduced legislation to adopt the 2017 UPA.[11] At least 12 States and the District of Columbia have enacted laws and adopted forms and procedures allowing same-sex parents to use the voluntary acknowledgment process to establish parentage.[12]

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[7] *Fifteen Percent of Same-Sex Couples Have Children in Their Household,* U.S. Census Bureau (January 17, 2020), available at: https://www.census.gov/library/stories/2020/09/fifteen-percent-of-same-sex-couples-have-children-in-their-household.html.
[8] *Id.*
[9] *Conover v. Conover*, 141 A.3d 31, 47-48 (Md. 2016).
[10] See UPA (2017), available at: https://www.uniformlaws.org/committees/community-home?CommunityKey=c4f37d2d-4d20-4be0-8256-22dd73af068f. The seven states that have enacted the 2017 UPA are California, Colorado, Connecticut, Maine, Rhode Island, Vermont, and Washington. The 2017 changes to the UPA also address parentage establishment for parents without a biological relationship to the child, i.e., surrogacy, assisted reproduction. The changes to the regulatory language will also allow such parents to participate in the program without the state risking noncompliance with title IV-D requirements.
[11] Hawaii, Kansas, Nevada, Pennsylvania, and Massachusetts have introduced legislation to adopt the 2017 UPA.
[12] The 12 states are Maine, California, Connecticut, Massachusetts, Vermont, Washington, Maryland, New York, Rhode Island, Nevada, Colorado, and Delaware.

We also note that the Uniform Interstate Family Support Act (UIFSA 2008), which all States are required to adopt under title IV-D,[13] uses the term "parentage" instead of paternity for requirements governing interstate child support cases. We further note that title IV-D does not preclude States from adopting laws on parentage, surrogacy, and assisted reproduction that define and afford parental rights to diverse families, including same-sex parents and parents who do not have a biological relationship to the child. Title IV-D also does not prohibit States and Tribes from providing full faith and credit to same-sex parentage establishments made by any other State or tribe according to its laws and procedures.

OCSS and stakeholders within the child support community, including the NCSEA, believe strongly that all children should be served equitably by the Federal-State child support program.[14] Child support services programs play a critical role in addressing the changing needs of families by providing family-centered services that best support the financial and emotional needs of all children. The ability to provide all children with services to obtain needed financial support is at the heart of the title IV-D program. The proposed regulation implements section 451 of the Act, which authorizes funding under to title IV-D for the purpose of "assuring that assistance in obtaining support will be available under [part IV-D] to **all** children (whether or not eligible for assistance under a State program funded under part A [TANF]) for whom such assistance is requested." (Emphasis added). Since establishment of a parent-child relationship is a preliminary step to establishing a support obligation, and numerous States have adopted laws and procedures to be able to serve the needs of the children in their caseload, regardless of the gender and sexual orientation of their parents or whether they are

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[13] See section 466(f) of the Act, 42 U.S.C. 666(f)), providing that "In order to satisfy section 454(20)(A), each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, including any amendments officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws."

[14] Quick Facts: Same Sex Parents, NCSEA, May 2020, available at: https://www.ncsea.org/wp-content/uploads/2020/07/Quick-Facts-Same-Sex-Parents-2020.pdf.

genetically related to their parent, it is necessary that the language of the child support services program regulations reflect such changes. The proposed changes assure that children can receive assistance in obtaining financial support from the parent who, under State or Tribal laws, has a duty to provide support. This proposed rulemaking recognizes the changes in Federal and State laws concerning the rights of individuals in LGBTQI+ communities, in particular, State laws expanding the establishment of the parent-child relationship and provides State and Tribal child support services programs needed flexibility to serve all the families in their caseloads.

Genetic Testing Requirements in Contested Paternity Cases

As we stated in PIQ 22-02, sections 454 and 466 of the Act require States to have laws permitting the establishment of paternity in cases involving different-sex parents. These laws also require states to have procedures requiring that the child and parties submit to genetic testing, upon request, in any contested paternity case unless otherwise barred by law. Section 454(20) of the Act requires States, to the extent required by section 466 of the Act, have laws in effect and implement laws to improve child support services program effectiveness. Section 466(a)(5)(B) of the Act requires that States have procedures for genetic testing in contested "paternity" cases upon request by a party "alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties." This provision also states that genetic testing may not be required if "otherwise barred by State law" and recognizes that "good cause and other exceptions for refusing to cooperate" with genetic testing may exist. Section 466(a)(5)(B), therefore, generally will not impact parentage laws for cases involving same-sex parent families.

Similarly, section 466(a)(5)(G) of the Act requires that States have "[p]rocedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged

father is the father of the child." Congress added this provision to the Act in 1993, when genetic testing was emerging as scientifically reliable evidence to establish whether a man was biologically related to a child. As OCSS explained in its final rule issued in 1994, the presumption based on genetic test results was intended to "expedite paternity resolution"[15] by requiring that "a presumption of paternity be based upon genetic test results indicating a threshold probability of the alleged father being the father of the child."[16]

The proposed regulation would not modify these requirements. States must still comply with title IV-D requirements for establishment of paternity and genetic testing in contested paternity cases "as appropriate." See section 454(4)(A) of the Act and 45 CFR 303.5. To ensure that these title IV-D requirements continue to apply, in nine places in chapter III, we incorporate by cross-reference the requirements of section 466(a)(5)(B) of the Act regarding genetic testing in contested paternity cases. These provisions are 45 CFR 302.70(a)(5)(ii), (v) and (vi), 303.5(c), (d)(1), (e)(1) and (3), 303.11(b)(6)(ii), and 304.12(4)(iv). Since title IV-D's paternity establishment provisions do not address contested parentage cases between same-sex parents, States and Tribes have flexibility to resolve such cases in accordance with State or Tribal laws and procedures.

Full Faith and Credit of Parentage Establishment

Section 451 of title IV-D provides funding to States and Tribes to assure all children receive assistance in obtaining financial support from their parents. This provision does not limit Federal funding of child support services to children born to different-sex parents. Section 452(a)(1) of the Act provides authority to establish standards "to assure that [State child support] programs will be effective" in obtaining child support orders. Section 454(13) of the Act provides authority to establish such

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[15] Final Rule: *Child Support Enforcement Program: Paternity Establishment and Revision of Child Support Enforcement Program and Audit Regulations* 59 FR 66204, 66208 (December 23, 1994).
[16] *Id.* at 66228.

other requirements in the title IV-D program necessary for the program to be effective "in locating noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan." Together, these provisions make clear that the ultimate goal of the child support services program is to ensure that children receive financial support from their parents. These title IV-D program statutes provide the legal basis for rulemaking that allows State programs to be more effective in serving the child support needs of all children, regardless of the gender or sexual orientation of their parents.

Parentage Established by Order of Adoption

While Federal law defers to State law on parentage establishment, with regard to interstate recognition of another State's parentage order, current law requires States to recognize parentage established by judicial determination of another State, even if such determination may be at odds with the State's own parentage laws. The Full Faith and Credit Clause of Article IV, Section 1 of the Constitution requires States to recognize and give effect "to the public acts, records and judicial proceedings of every other State." This Constitutional provision requires States to recognize parentage of same-sex parents established through adoption. After *Obergefell*, the Supreme Court in *V.L. v. E.L.,* 577 U.S. 404 (2016), summarily reversed a State court's decision refusing to provide full faith and credit to another State's order of adoption by a same-sex parent.[17] In doing so, the Supreme Court reaffirmed that court judgments, including adoption decrees of same-sex parents, are entitled to the most "exacting form" of full faith and credit, meaning that they are enforceable in every state regardless of which State issued the decree. Many same-sex parents use the adoption process to establish the legal relationship with their children

[17]See also *Finstuen v. Crutcher*, 496 F.3d 1139, 1156 (10th Cir. 2007).

and secure their rights and obligations as parents. Although many States have streamlined the adoption process for married parents, which reduces the cost and time involved in the adoption process, OCSS recognizes that even with streamline procedures, the cost of adoption makes the adoption process difficult to access for many parents.

Parentage Established by Marital Presumption

States also recognize another state's parentage establishment through the application of the marital presumption. Under the marital presumption doctrine, when a woman gives birth to a child, her spouse is presumed to be the biological parent. OCSS policy since 1995 has recognized that birth certificates provide sufficient evidence of parentage.[18] The marital presumption establishes legal rights and obligations of spouses to the child born during the marriage, unless rebutted under strict procedural State laws and procedures. As described earlier, in *Pavan*, the Supreme Court held that States must provide married same-sex parents the same right as married different-sex parents to be included on their child's birth certificate. In so holding, the Court noted that "differential treatment infringes *Obergefell's* commitment to provide same-sex couples "the constellation of benefits that the States have linked to marriage.""[19] Thus, application of the marital presumption, if not rebutted, establishes the parentage of children born to the marriage, and applies even when a birth parent spouse is not the biological parent of the child, and regardless of the spouse's gender or sexual orientation.

Parentage Under UIFSA

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[18] See OCSS DCL-95-40, *Determining Paternity for Children Born Out of Wedlock*, available at https://www.acf.hhs.gov/css/policy-guidance/determining-paternity-children-born-out-wedlock.

[19] *Pavan v. Smith*, 582 U.S. 563, 564, quoting *Obergefell*, 576 U.S. at 646-647; see also *McLaughlin v. Jones*, 401 P.3d 492 (Ariz. 2017) (relying on *Obergefell* and *Pavan* in holding that the state's refusal to apply the marital presumption equally to same-sex spouses would violate the due process and equal protection clauses of the U.S. Constitution). The holdings in *Obergefell* and *Pavan* have also been extended by the U.S. District Court of Utah to require recognition of married same-sex spouse of a mother who gave birth to their child through assisted reproduction to the same extent as the state recognizes parentage of male spouses in the same situation. See *Roe v. Patton*, 2015 WL 4476734.

In addition, parentage established in another State, that is the basis of an interstate child support proceeding under UIFSA, must be accepted by the responding State. States adopted UIFSA 2018 verbatim as required by sections 454(a)(20) and 466(f) of the Act.[20] Section 315 of UIFSA 2008 prohibits non-parentage to be raised as a defense in an interstate child support proceeding.[21] Thus, any challenge to parentage must be resolved in the State that issued the parentage determination. If a challenge is not brought in the issuing State, or is unsuccessful, the State receiving the interstate child support services request must recognize the parent-child relationship established in accordance with the laws of the issuing State.

Voluntary Acknowledgement of Parentage (VAP)

Section 466(a)(5)(C) of title IV-D requires States to enact laws ensuring a simple civil process for voluntarily acknowledging parentage (VAP). The changes made by the proposed rule provide States and Tribes the option to update forms used in the voluntary acknowledgment of parentage process to include gender-neutral terms. In addition, States and Tribes may extend use of the form, in accordance with State and Tribal laws and procedure, to establish parentage of children born to unmarried same-sex couples. A small but growing number of States now explicitly allow parents of any gender and non-biological parents to sign VAPs. Sections 466(a)(5)(C)(iv) and (a)(11) of the Act, 42 U.S.C. 666(a)(5)(C)(iv) and (a)(11), require States to give full faith and credit to voluntary acknowledgment of parentage signed in any other State according to its procedures, however, the plain language of title IV-D imposes this requirement of

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[20] See section 466(f) of the Act, 42 U.S.C. 666(f)), providing that "In order to satisfy section 454(20)(A), each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, including any amendments officially adopted as of September 30, 2008 by the National Conference of Commissioners on Uniform State Laws." See also AT-14-11, *Pub. L. 113-183 UIFSA 2008 Enactment*, available at: https://www.acf.hhs.gov/css/policy-guidance/pl-113-183-uifsa-2008-enactment, requiring states to adopt UIFSA 2008 verbatim.

[21] Section 315 of UIFSA provides states: "**SECTION 315. NONPARENTAGE AS DEFENSE.** A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this [Act].

recognition on paternity determinations only. This rulemaking does not propose to change this title IV-D requirement established by statute. Accordingly, under this proposed rule, States and Tribes may, at their option, recognize same-sex parentage established through the laws and procedures for the voluntary acknowledgment process in another State. OCSS encourages States and Tribes to do so to promote cooperation in interstate child support cases and to ensure that children can receive financial assistance from their parent and are not denied the benefit of having a relationship with, and emotional support of both their parents, regardless of their family's structure.

Impact on Performance Measures

Section 452(g) of the Act, 42 U.S.C. 652(g), requires States to achieve certain performance levels in order to avoid program penalties and makes them eligible to receive incentive funds under section 458 of the Act, 42 U.S.C. 658a, based on performance. The incentive and penalty provisions of title IV-D are implemented through 45 CFR 305.0 through 305.66. The incentive system measures State performance levels in the following five program areas: paternity establishment, support order establishment, current collections, arrearage collections, and cost-effectiveness. The penalty system measures State performance in the following three areas: paternity establishment, support order establishment, and current collections. Under the current interpretation of title IV-D, a State that provides parentage establishment services for same-sex parents may not include those establishments in reporting program performance measures. This rulemaking would provide States the option to include parentage establishment for same-sex parents for the purposes of measuring their parentage establishment performance.

A State's paternity establishment percentage (PEP) is determined by dividing the total number of children in the IV-D caseloads in the fiscal year (or, at the option of the State, as of the end of the fiscal year) born out-of-wedlock with paternity established or

acknowledged by the total number of children in the IV-D caseloads as of the end of the preceding fiscal year who were born out-of-wedlock.[22] As States have moved forward with updating State law and child support services program policies to meet the needs of same-sex parents and their children, several States have asked OCSS for guidance on Federal reporting requirements. In 2022, OCSS issued PIQ-22-02 to clarify that the provisions in title IV-D of the Social Security Act mandating paternity establishment laws do not preclude States from adopting parentage laws and procedures for same-sex parent families. The establishment of the parent-child relationship is a matter of State law. State child support services programs need flexibility to provide core child support services, which include establishing support orders against the parent who, under State law, has a duty to provide support. PIQ-22-02 clarified that parentage establishment services provided to same-sex parent families, though not required under title IV-D, are reasonable and necessary expenses related to the core title IV-D program functions of establishing and enforcing orders, thus making them eligible for FFP under 45 CFR 304.20(a)(1).

Section 452(g)(3)(A) allows the Secretary to "modify the requirements of [subsection 452g] to take into account such additional variables as the Secretary identifies (including the percentage of children in a State who are born out of wedlock or for whom support has not been established) that affect the ability of a State to meet the requirements of this subsection." Section 458(e) grants the Secretary the authority to "prescribe such regulations as may be necessary governing the calculation of incentive payments under this section." In addition, section 454(13) of title IV-D provides the Secretary with broad authority to require States to "comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity, obtaining

[22] 42 U.S.C. 652(g)(2).

support orders, and collecting support payments and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan." These authorities provide the legal basis for allowing States to report same-sex parentage establishments for program performance purposes to ensure that the program is effective in establishing support orders and collecting support, regardless of the structure of their families. Accordingly, the proposed rule provides States the option to include parentage established for children under the laws and procedures of the State or Tribe for same-sex parents in reporting the PEP.

Section by Section Discussion

The NPRM proposes to make a nomenclature change, to remove the term "paternity" wherever it appears throughout 45 CFR chapter III, within titles, images, sections, and paragraphs, and replace it with the gender-neutral term "parentage." This proposed change recognizes that numerous States have updated their laws and procedures to meet the legal, financial, and emotional needs of the families in their jurisdiction ensuring that all children in their caseloads can receive child support services and support from their parents, regardless of the structure of their family. The proposed change makes clear that title IV-D accommodates those updated State laws. This change will take place in the parts of chapter III shown in the following table:

Part	**Sections**
301	301.1
302	302.17, 302.31, 302.33, 302.34 and 302.70
303	303.4, 303.5, 303.11, 303.20, 303.70 and 303.101
304	304.12 and 304.20
305	305.1, 305.2, 305.31, 305.33, 305.40, 305.61, 305.62, and 305.63

307	307.10 and 307.11
308	308.2
309	309.05, 309.15, 309.55, 309.65, 309.80, 309.85, 309.90, 309.100, 309.145 and 309.170
310	310.10

In § 301.1 *General Definitions*, OCSS proposes to add a definition for the term "parentage" as used in chapter III to mean "the establishment of the legal parent-child relationship in accordance with the laws and procedures of the State or Tribe."

The NPRM further proposes to cross-reference section 466(a)(5)(B) of the Act regarding genetic testing requirements in the following sections to make clear that title IV-D requirements regarding genetic testing continue to apply in cases involving different-sex parents, where paternity is contested. These cross-references are included in §§ 302.70(a)(5)(ii), (v) and (vi), 303.5(c), (e)(1) and (3), 303.11(b)(6)(ii), and 304.12(b)(4)(iv). States must continue to require genetic testing to establish paternity in contested cases as appropriate. Under § 303.11(b)(6)(iv) we propose to remove "biological" and add "putative" in its place. OCSS proposes to amend § 309.145(b)(2) by adding the word "putative" immediately following the word "child's" in the sentence.

OCSS also proposes to make changes to replace the gender-specific terms "mother" and "father" with the gender-neutral term "parent" where such terms appear in chapter III. These provisions are §§ 302.70(a)(5)(iii) and (vi), 303.4(d), 303.5(a)(1), (c), (e)(3), (g)(2)(i) and (ii) and (3), 303.7(e)(1), 303.11(b)(4) and (6), 303.70(a) and (d)(1), 303.101(b)(2)(iii), 304.20(b)(2)(i), 305.1(a), 307.11(e)(ii), (f)(1)(ix), 307.13(a)(4)(iii), 308.2(h)(2), 309.100(a)(2) and (c), 309.145(b)(2), 310.10(a)(3(iii). Additionally, in § 303.20(c)(2) we propose to remove the words, "his or her" and replace it with "their." Under § 305.2, we propose replacing images below paragraph (a)(1)(i) and paragraph

(a)(1)(ii) with images that represents the equation to compute "IV-D Parentage Establishment Percentage" and "Statewide Parentage Establishment Percentage" respectively. Under § 303.101(c)(3), we propose adding the words "made by judicial or administrative process" to immediately follow the word "determination."

OCSS further proposes to cross-reference sections 466(a)(5)(C)(iv) and (a)(11) of the Act addressing full faith and credit requirements for parentage determinations in § 302.70(a)(11) that continue to apply to paternity determinations. Accordingly, the proposed change requires States to "give full faith and credit to a determination of parentage made by any other State in accordance with sections 466(a)(5)(C)(iv) and (a)(11) of the Act, whether established through voluntary acknowledgment or through administrative or judicial processes." The proposed change makes clear that full faith and credit requirements apply to paternity determinations, however, States and Tribes may, at their option, recognize same-sex parentage establishment determined in accordance with the laws and procedures of another State or Tribe.

Effective Dates

The proposed effective date will be 60 days from the date of publication of the final rule. There are no compliance dates for this proposed regulation because the inclusion of parentage establishment in the Child Support Services program is an optional criterion.

Impact Analysis

Paperwork Reduction Act of 1995

The Department has determined that this proposed rule does not impose new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Analysis

The Secretary proposes to certify, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this proposed rule, if finalized, would not result in a significant impact on a substantial number of small entities. The primary impact is on state governments. State governments are not considered small entities under the Act.

Regulatory Impact Analysis

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if the regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This proposed rule, if finalized, would not result in economic impacts that exceed the monetary threshold for significance in section 3(f)(1) of Executive Order 12866 (as amended by Executive Order 14094). However, the regulation is significant and has been reviewed by the Office of Management and Budget.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, Tribal and Local governments, in the aggregate, or by the private sector of $100 million or more in any one year. This $100 million threshold was based on 1995 dollars. The current threshold, adjusted for inflation is $177 million. This proposed rule, if finalized, would not impose a mandate that will result in the expenditure by State, Local, and Tribal

governments, in the aggregate, or by the private sector, of more than $177 million in any one year.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. The required review of the regulations and policies to determine their effect on family well-being has been completed, and this rulemaking will have a positive impact on family well-being as defined in the legislation by helping to ensure that parents support their children, even when they reside in separate jurisdictions, and will strengthen personal responsibility and increase disposable family income.

Executive Order 13132

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments or is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This proposed rule does not have a federalism impact as defined in the Executive order.

Jeff Hild, Acting Assistant Secretary of the Administration for Children and Families, approved this document on August 30, 2023.

List of Subjects

45 CFR Part 301

Child support, State Plan Approval and Grant Procedures.

45 CFR Part 302

Child support, State Plan Requirements.

45 CFR Part 303

Child support, Standards for Program Operations.

45 CFR Part 304

Child support, Federal Financial Participation.

45 CFR Part 305

Child support, Program Performance Measures, Standards, Financial Incentives, and Penalties.

45 CFR Part 307

Child support, Computerized Support Enforcement Systems.

45 CFR Part 308

Child support, Annual State Self-Assessment Review and Report.

45 CFR Part 309

Child support, Tribal Child Support Enforcement (IV-D) program.

45 CFR Part 310

Child support, Computerized Tribal IV-D Systems and Office Automation.

Dated: September 19, 2023.

Xavier Becerra,

Secretary, Department of Health and Human Services.

For the reasons discussed in the preamble, the Department of Health and Human Services proposes to amend 45 CFR chapter III as follows:

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

1. The authority citation for part 301 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1301, and 1302.

2. Amend § 301.1 by removing the word "paternity" and adding in its place the word "parentage" in the definition for "Attorney of a Child", and adding, in alphabetical order, the definition for "Parentage" to read as follows:

§ 301.1 General definitions.

* * * * *

Parentage means the establishment of the legal parent-child relationship in accordance with the laws of the State or Tribe.

* * * * *

PART 302—STATE PLAN REQUIREMENTS

3. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

4. Amend part 302 by:

a. Removing the word "paternity" wherever it appears, and adding in its place the word "parentage";

b. Removing the word "mother" wherever it appears, and adding in its place the word "parent"; and

c. Removing the word "father" wherever it appears, and adding in its place the word "parent".

5. Amend § 302.70 by:

a. In paragraph (a)(5)(ii), adding the words “as required by section 466(a)(5)(B) of the Act” immediately following the words “genetic tests”; and

b. Revising paragraphs (a)(5)(v) and (vi) and (a)(11).

The revisions read as follows:

§ 302.70 Required State laws.

(a) * * *

(5) * * *

(v) Procedures which provide that any objection to results of genetic testing required under section 466(a)(5)(B) of the Act must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence; and if no objection is made, a report of the test results, which is reflected in a record, is admissible as evidence of parentage without the need for foundation testimony or other proof of authenticity or accuracy;

(vi) Procedures which create a rebuttable or, at the option of the State, conclusive presumption of parentage upon the results of genetic testing required under section 466(a)(5)(B) of the Act indicating a threshold probability of the alleged parent being the parent of the child;

* * * * *

(11) Procedures under which the State must give full faith and credit to a determination of parentage made by any other State in accordance with sections 466(a)(5)(C)(iv) and (a)(11) of the Act, whether established through voluntary acknowledgment or through administrative or judicial processes.

* * * * *

PART 303—STANDARDS FOR PROGRAM OPERATIONS

6. The authority citation for part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k), and 25 U.S.C. 1603(12) and 1621e.

7. Amend part 303 by:

a. Removing the word "paternity" wherever it appears, and adding in its place the word "parentage";

b. Removing the word "mother" wherever it appears, and adding in its place the word "parent"; and

c. Removing the word "father" wherever it appears, and adding in its place the word "parent".

8. Amend § 303.5 by revising the section heading, paragraphs (c), (e)(1) and (3), and (g)(2)(i)(C) to read as follows:

§ 303.5 Establishment of parentage.

* * * * *

(c) The IV-D agency must identify and use through competitive procurement laboratories which perform, at reasonable cost, legally and medically acceptable genetic tests required under section 466(a)(5)(B) of the Act which tend to identify the parent or exclude the alleged parent. The IV-D agency must make available a list of such laboratories to appropriate courts and law enforcement officials, and to the public upon request.

* * * * *

(e)(1) Except as provided in paragraph (e)(3) of this section, the IV-D agency may charge any individual who is not a recipient of aid under the State's title IV-A or XIX plan a reasonable fee for performing genetic tests required under section 466(a)(5)(B) of the Act.

* * * * *

(3) If parentage is established and genetic tests were ordered by the IV-D agency in accordance with section 466(a)(5)(B) of the Act, the IV-D agency must pay the costs of such tests, subject to recoupment (if the agency elects) from the alleged parent who denied parentage. If a party contests the results of an original test, the IV-D agency shall obtain additional tests but shall require the contestant to pay for the costs of any such additional testing in advance.

* * * * *

(g) * * *

(2) * * *

(i) * * *

(C) Notice, orally or through video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including any rights, if a parent is a minor, due to minority status) and responsibilities of acknowledging parentage, and

* * * * *

§ 303.11 [Amended]

8. Amend § 303.11 by:

a. In paragraph (b)(6)(ii), adding the words "as required by section 466(a)(5)(B) of the Act" immediately following the words "genetic test"; and

b. In paragraph (b)(6)(iv) by removing the word "biological" and adding in its place the word "putative".

§ 303.20 [Amended]

9. Amend § 303.20, in paragraph (c)(2), by removing the words "his or her" and in adding in their place the word "their".

§ 303.70 [Amended]

10. Amend § 303.70, in paragraph (a), by removing the word "fathers" and adding in its place the word "parents".

§ 303.101 [Amended]

11. Amend § 303.101, in paragraph (c)(3), by adding the words “made by judicial or administrative process” immediately following the word “determination”.

PART 304—FEDERAL FINANCIAL PARTICIPATION

12. The authority citation for part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

13. Amend part 304 by:

a. Removing the word “paternity” wherever it appears, and adding in its place the word “parentage”; and

b. Removing the word “father” wherever it appears, and adding in its place the word “parent”.

§ 304.12 [Amended]

14. Amend § 304.12, in paragraph (b)(4)(iv), by adding the words “in accordance with section 466(a)(5)(B) of the Act” immediately following the words “determining parentage”.

PART 305—PROGRAM PERFORMANCE MEASURES, STANDARDS, FINANCIAL INCENTIVES, AND PENALTIES

15. The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 609(a)(8), 652(a)(4) and (g), 658a, and 1302.

16. Amend part 305 by removing the word “paternity” wherever it appears, and adding in its place the word “parentage”.

§ 305.1 [Amended]

17. Amend § 305.1, in paragraph (a), by removing the text “(mother, father, or putative father)” and adding in its place the text “or putative parent”.

18. Amend § 305.2 by revising the equations in paragraphs (a)(1)(i) and (ii) to read as follows:

§ 305.2 Performance measures.

(a) * * *

(1) * * *

(i) * * *

$$\frac{\text{Total \# of Children in IV - D Caseload in the Fiscal Year or, at the option of the State, as of the end of the Fiscal Year who were Born Out - of - Wedlock with Parentage Established or Acknowledged}}{\text{Total \# of Children in IV - D Caseload as of the end of the preceding Fiscal Year who were Born Out - of - Wedlock}}$$

(ii) * * *

$$\frac{\text{Total \# of Minor Children who have been Born Out - of - Wedlock and for Whom Parentage has been Established or Acknowledged During the Fiscal Year}}{\text{Total \# of Children Born Out of Wedlock During the Preceding Fiscal Year}}$$

* * * * *

19. Amend part heading for part 307 to read as follows:

PART 307—COMPUTERIZED SUPPORT SERVICES SYSTEMS

20. The authority citation for part 307 continues to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666 through 669A, and 1302.

21. Amend part 307 by:

a. Removing the word “paternity” wherever it appears, and adding in its place the word “parentage”; and

b. Removing the word “father” wherever it appears, and adding in its place the word “parent”.

PART 308—ANNUAL STATE SELF-ASSESSMENT REVIEW AND REPORT

22. The authority citation for part 308 continues to read as follows:

Authority: 42 U.S.C. 654(15)(A) and 1302.

§ 308.2 [Amended]

23. Amend § 308.2 by:

a. In paragraphs (b), (b)(2)(iv), and (h)(1), removing the word "paternity" and adding in its place the word "parentage"; and

b. In paragraph (h)(2), removing the word "father" and adding in its place the word "parent".

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PART 309—TRIBAL CHILD SUPPORT SERVICES (IV-D) PROGRAM

25. The authority citation for part 309 continues to read as follows:

Authority: 42 U.S.C. 655(f) and 1302.

26. Revise the heading to part 309 to read as set forth above.

27. Amend part 309 by:

a. Removing the word "paternity" wherever it appears, and adding in its place the word "parentage"; and

b. Removing the word "father" wherever it appears, and adding in its place the word "parent"

§ 309.145 [Amended]

28. Amend § 309.145, in paragraph (b)(2), by adding the word "putative" immediately following the word "child's".

PART 310—COMPUTERIZED TRIBAL IV-D SYSTEMS AND OFFICE AUTOMATION

29. The authority citation for part 310 continues to read as follows:

Authority: 42 U.S.C. 655(f) and 1302.

§ 310.10 [Amended]

30. Amend § 310.10 by:

a. In paragraph (a) :

i. Removing the word “paternity” and adding in its place the word “parentage”; and

ii. Removing the word “father” and adding in its place the word “parent”.

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